

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

VONELL LAVELL SHAW,

Plaintiff,

v.

Case No. 23-cv-1272-bhl

DYLAN HOFFSTATTER, et al.,

Defendants.

DECISION AND ORDER

Plaintiff Vonell Lavell Shaw, who is incarcerated at Green Bay Correctional Institution, is representing himself in this §1983 action. In early June 2024, Shaw informed the Court that relevant video footage that he had requested in discovery had not been produced. After numerous motions from Shaw and apparent misstatements from Defense Counsel regarding the production of the video, the Court ordered Defendants to show cause why sanctions were not warranted. On August 16, 2024, Defense Counsel filed a thorough explanation of Shaw's requests, Defendants' responses to those requests, and the reasons for the delayed production. Defense Counsel concedes that some of the video Shaw had requested was not initially produced, but the Court is satisfied that this failure was not intentional and that Defense Counsel promptly addressed the issue once he learned of it. Further, Defense Counsel explains that much of the delay in Shaw viewing the video was a result of Shaw's misconduct. Shaw received multiple conduct reports for using intoxicants, disruptive conduct, lying, disrespect, possession of contraband, and exposing himself to staff. For a short time, Shaw was placed in observation status where he was unable to view the video and then he was placed in the restricted housing unit, where he failed to follow the

institution's policies for scheduling an appointment to view the video. Thus, the delay Shaw experienced in viewing the video is not wholly Defendants' fault.

Defense Counsel also explains why producing *hours* of video is necessary to defend against Shaw's claims. Shaw alleges that he seriously harmed himself on August 6, 2022, some time between 12:30 and 4:30 p.m. Typically, video footage covering that length of time would not exist, but because Shaw was on observation status, there is in-cell video footage showing what happened during the entire time at issue. As Defense Counsel observes, "inmate litigation is rife with issues related to video retention and shifting plaintiff narratives. Too often, video is absent or obstructed at a key moment, leading to factual disputes that could be avoided." Dkt. No. 48. Here, however, video footage covering the entire period at issue removes "those common pitfalls." Accordingly, the Court is satisfied that Defendants appropriately produced all relevant video evidence. It will therefore deny Shaw's motion for default judgment and his motion to compel.

Finally, on August 19, 2024, Shaw filed a motion to extend his time to respond to Defendants' summary judgment motion. Dkt. No. 51. He explains that new policies have significantly delayed the delivery of legal mail. He also notes that he can view the produced videos only in thirty-minute increments, so he will need to schedule multiple viewing appointments. Defendants do not oppose extending Shaw's deadline to respond. The Court will therefore grant his motion.

IT IS THEREFORE ORDERED that Shaw's motion for default judgment (Dkt. No. 39) and his motion to compel (Dkt. No. 42) are **DENIED**.

IT IS FURTHER ORDERED that Shaw's motion for an extension of time to respond to Defendants' summary judgment motion (Dkt. No. 51) is **GRANTED**. If by **October 15, 2024**, Shaw does not respond to Defendants' summary judgment motion or does not request additional

time to do so, the Court will accept all facts asserted by Defendants as undisputed and will decide the motion without Shaw's input.

Dated at Milwaukee, Wisconsin on August 21, 2024.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge